



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 26, 1996

Mr. Robert J. Gervais
Assistant City Attorney
Legal Department
City of Galveston
P. O. Box 779
Galveston, Texas 77553-0779

OR96-1767

Dear Mr. Gervais:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100874.

The City of Galveston Police Department (the "department") received a request from an attorney for all information pertaining to her client's arrest by the department, on or about July 29, 1988. The requestor also seeks "all records in the possession of the [department] pertaining to [a certain named individual], including all investigative, detention and medical records."¹ You assert that the submitted records at issue are confidential and may be withheld pursuant to Government Code chapter 411 and section 552.101 of the Government Code.² We have considered the exception you claim and have reviewed the submissions at issue.

¹Since the department has not submitted any "medical records" to our office nor can we ascertain whether any "medical records" have been released to the requestor in response to the open records request, we note that medical records are confidential under section 552.101 of the Government Code in conjunction with the Medical Practice Act, ("MPA"), V.T.C.S. article 4495b. The release of medical records is governed by the MPA and such records may only be released in accordance with the MPA. We caution that section 552.352 of the Open Records Act imposes criminal penalties for the release of confidential information. See Gov't Code § 552.352 (providing penalties for improper release of confidential information).

²You contend that "[t]he releasable documents will be provided to [the requestor], however, the submitted documents are confidential and excepted by statute." You further state that certain documents were marked as confidential by the department. However, none of the submissions to this office appeared to be marked.

You claim that section 552.101 excepts from disclosure criminal history record information ("CHRI"). Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. CHRI generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is deemed confidential by federal and state law. Federal regulations prohibit the release of CHRI maintained in state and local CHRI systems to the general public. See 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given."), (2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself."). Section 411.083 provides that any CHRI maintained by the Department of Public Safety ("DPS") is confidential. Gov't Code § 411.083(a). Similarly, CHRI obtained from the DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. *Id.* § 411.084. Therefore, the department must withhold any CHRI from the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 100874

Enclosures: Submitted documents

cc: Ms. Laura-Hill Patton
Staff Attorney
Georgia Resource Center
101 Marietta Tower, Suite 3310
Atlanta, Georgia 30303
(w/o enclosures)